

HOUSE BILL No. 2543

By Committee on Children and Families

1-25

1 AN ACT concerning school districts; creating the autism scholarship
2 program; relating to the administration thereof; amending K.S.A. 2011
3 Supp. 72-6407 and repealing the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. As used in this act:

7 (a) "Program" means the autism scholarship program.

8 (b) "Eligible student" means an exceptional child who: (1) Has been
9 identified as having autism or an autism spectrum disorder; (2) has an
10 individual education plan in effect which provides for services which cost
11 in excess of \$25,000; and (3) was enrolled in public school in the previous
12 school year or is eligible to enter public school in the school year in which
13 a scholarship is first sought for such child.

14 (c) "Parent" includes a guardian, custodian or other person with
15 authority to act on behalf of the child.

16 (d) "Resident school district" means the school district in which the
17 student resides.

18 (e) "State board" means the state board of education.

19 (f) "Participating school" means: (1) Any elementary or secondary
20 school operated by a school district or other public entity; (2) any non-
21 public elementary or secondary school that has notified the state board of
22 the school's intention to participate in the program and which complies
23 with the requirements of the program.

24 New Sec. 2. (a) There is hereby established the autism scholarship
25 program. The program shall be administered by the state board.

26 (b) Any parent of an eligible student shall qualify for a scholarship
27 from the state board if:

28 (1) The eligible student has had an individual education plan written
29 in accordance with the rules of the state board;

30 (2) the student has been accepted for admission at a participating
31 school; and

32 (3) the parent has submitted an application for a scholarship in the
33 manner specified by the state board.

34 (c) Any student participating in the program shall comply fully with a
35 participating school's written code of conduct and shall remain in
36 attendance throughout the school year, unless excused by the school for

1 illness or other good cause. However, a parent may transfer an eligible
2 student to a public school or another participating school at any time. The
3 scholarship amount shall be prorated between participating schools
4 according to the period of attendance at each school.

5 (d) A parent's decision for their child to participate in the program
6 constitutes a non-public placement for purposes of the individuals with
7 disabilities education act (20 U.S.C. § 1400 et seq.).

8 (e) At any time, an eligible student's parent may remove such student
9 from the participating school and place such student in another
10 participating school or in a public school.

11 New Sec. 3. (a) The state board shall notify the resident school
12 district that an eligible student has requested an autism scholarship. Within
13 three business days of receipt of such notice, the district shall provide the
14 state board and the participating school a copy of such student's most
15 current individual education plan.

16 (b) The resident school district shall prepare an individual education
17 plan for each eligible student residing in the district. The resident school
18 district shall determine the estimated cost of providing services under the
19 individual education plan for each eligible student. Written notice of the
20 estimated cost of the services to be provided to the eligible student shall be
21 provided to the state board. The resident school district also shall provide
22 such student's parent with a timely written explanation of the estimation of
23 the cost of the services to be provided to the eligible student.

24 (c) The maximum scholarship granted to an eligible student shall be
25 an amount equal to the lesser of:

26 (1) The estimated cost of the services to be provided under the
27 individual education plan for the eligible student; or

28 (2) an amount equal to the sum of:

29 (A) The amount of the base state aid per pupil; plus

30 (B) \$20,000; plus

31 (C) an amount equal to 75% of the amount of the cost of the tuition
32 and educational services provided by the participating school to the
33 eligible student which exceeds the sum of paragraphs (A) and (B).

34 (d) Subject to the limitations provided in subsection (c), the state
35 board shall certify to the director of accounts and reports the amount of the
36 scholarship to be awarded for each eligible student. The director of
37 accounts and reports shall issue a warrant on the state treasurer payable to
38 the parent of each eligible student awarded a scholarship under the
39 program in the amount certified by the state board.

40 (e) The autism scholarship shall remain in force until the eligible
41 student returns to a public school, graduates from high school or reaches
42 21 years of age, whichever comes first.

43 New Sec. 4. Although a student's individual education plan is used in

1 calculating the amount of the scholarship, nothing in this act shall be
2 construed as requiring the participating school to abide by the individual
3 education plan. The parent and the participating school mutually shall
4 determine the best services and educational plan for the student.

5 New Sec. 5. (a) A resident school district annually shall notify the
6 parents of an eligible student of the autism scholarship program and offer
7 such student's parents an opportunity to enroll such student in a
8 participating school of their choice.

9 (b) It shall be the responsibility of a parent to apply for admission to a
10 participating school and to apply for an autism scholarship.

11 (c) The resident school district shall provide a participating school
12 that has admitted an eligible student with a complete copy of such
13 student's school records, while complying with the family educational
14 rights and privacy act (20 U.S.C. § 1232g).

15 (d) Transportation shall be provided for an eligible student in the
16 same manner and funded in the same manner as provided for the
17 transportation of children under K.S.A. 72-961, and amendments thereto.

18 (e) Except as provided in subsection (d) an eligible student enrolled
19 in and attending a participating school shall not be counted as a pupil when
20 determining the enrollment of the resident district for the purposes of
21 determining the amount of state financial aid of the resident school district.

22 (f) If the parent of an eligible student participating in this program
23 requests that such student take the statewide assessments, the resident
24 school district shall provide locations and times for such student to take
25 such assessments if they are not offered at such student's participating
26 school.

27 New Sec. 6. The state board shall adopt rules and regulations that it
28 deems necessary to implement the provisions of this act, including, but not
29 limited to:

30 (a) Requirements relating to the eligibility and participation of non-
31 public schools;

32 (b) the calculation and awarding of scholarships;

33 (c) procedures relating to the submission and approval of applications
34 for scholarships; and

35 (d) procedures and safeguards relating to the issuance of vouchers to
36 insure that moneys awarded as scholarships are used for the purpose for
37 which awarded.

38 New Sec. 7. (a) The state board shall not be liable for claims based on
39 the award of or use of an autism scholarship.

40 (b) The state board may bar a school from participation in the
41 program if the state board establishes that the participating school:

42 (1) Has intentionally and substantially misrepresented information
43 required under section 8, and amendments thereto; or

1 (2) has failed to refund to the state any scholarship overpayments in a
2 timely manner.

3 (c) If the state board decides to bar a participating school from the
4 program, it shall notify eligible students and their parents of this decision
5 as quickly as possible.

6 New Sec. 8. (a) To be eligible to participate in the autism scholarship
7 program, a non-public school shall operate in this state and demonstrate:

8 (1) That it is in compliance with all health and safety laws or codes
9 that apply to non-public schools;

10 (2) that it holds a valid occupancy permit if required;

11 (3) that it will not discriminate in admissions on the basis of race,
12 color, national origin or religion; and

13 (4) that it is in compliance with all state laws that apply to non-public
14 schools regarding criminal background checks for employees.

15 (b) To ensure that public funds are spent appropriately, all
16 participating non-public schools shall submit a financial information report
17 for the school, conducted by a certified public accountant. Such report
18 shall:

19 (1) Be limited in scope to those records that are necessary for the
20 state board to make payments to schools for scholarships;

21 (2) comply with uniform financial accounting standards established
22 by the state board; and

23 (3) certify that the financial information report is free of material
24 misstatements.

25 (c) To receive \$50,000 or more during the school year, a non-public
26 school must demonstrate its ability to pay any funds owed to the state, by:

27 (1) Filing with the state board, prior to the start of the school year, a
28 surety bond payable to the state in an amount equal to the aggregate
29 amount of the autism scholarships expected to be paid during the school
30 year to students admitted to the participating non-public school; or

31 (2) filing with the state board, prior to the start of the school year,
32 financial information that demonstrates the school has the ability to pay an
33 aggregate amount equal to the amount of the autism scholarships expected
34 to be paid during the school year to students admitted to the participating
35 non-public school.

36 (d) All participating schools shall:

37 (1) Regularly report the student's progress to the parent; and

38 (2) ensure that the person providing special education or related
39 services holds the appropriate license issued by the state board.

40 (e) A participating non-public school is autonomous and not an agent
41 of the state or federal government therefore:

42 (1) The state board or any other state agency may not in any way
43 regulate the educational program of a participating non-public school that

1 accepts an autism scholarship;

2 (2) the creation of the autism scholarship program does not expand
3 the regulatory authority of the state, its officers or any school district to
4 impose any additional regulation of non-public schools beyond those
5 reasonably necessary to enforce the requirements of the program; and

6 (3) participating non-public schools shall be given the maximum
7 freedom to provide for the educational needs of their students without
8 governmental control.

9 New Sec. 9. (a) The state board shall conduct a study of the program
10 with funds other than state funds. The state board may accept grants to
11 assist in funding this study.

12 (b) The study shall assess:

13 (1) The level of participating student's satisfaction with the program;

14 (2) the level of parental satisfaction with the program;

15 (3) the percentage of participating students who were victimized
16 because of their special needs status at their resident school district
17 compared to the percentage so victimized at their participating school;

18 (4) the percentage of participating students who exhibited behavioral
19 problems at their resident school district compared to the percentage
20 exhibiting behavioral problems at their participating school;

21 (5) the class size experienced by participating students at their
22 resident school district and at their participating school; and

23 (6) the fiscal impact to the state and resident school districts of the
24 program.

25 (c) The study shall apply appropriate analytical and behavioral
26 sciences methodologies to ensure public confidence. A final report
27 evaluating the program shall be submitted to the legislature. Prior to
28 receiving the final report, the legislature may require periodic updates
29 regarding the study. The data and methodology used in the study must be
30 made available for public review while complying with the requirements
31 of the family educational rights and privacy act (20 U.S.C. § 1232g).

32 (d) The public and non-public participating schools from which
33 students transfer to participate in the program shall provide student
34 assessment scores and any other data necessary to complete this study.

35 Sec. 10. K.S.A. 2011 Supp. 72-6407 is hereby amended to read as
36 follows: 72-6407. (a) (1) "Pupil" means any person who is regularly
37 enrolled in a district and attending kindergarten or any of the grades one
38 through 12 maintained by the district or who is regularly enrolled in a
39 district and attending kindergarten or any of the grades one through 12
40 in another district in accordance with an agreement entered into under
41 authority of K.S.A. 72-8233, and amendments thereto, or who is regularly
42 enrolled in a district and attending special education services provided for
43 preschool-aged exceptional children by the district.

1 (2) Except as otherwise provided in paragraph (3) of this subsection,
2 a pupil in attendance full time shall be counted as one pupil. A pupil in
3 attendance ~~part-time~~ *part-time* shall be counted as that proportion of one
4 pupil (to the nearest $\frac{1}{10}$) that the pupil's attendance bears to full-time
5 attendance. A pupil attending kindergarten shall be counted as $\frac{1}{2}$ pupil. A
6 pupil enrolled in and attending an institution of postsecondary education
7 which is authorized under the laws of this state to award academic degrees
8 shall be counted as one pupil if the pupil's postsecondary education
9 enrollment and attendance together with the pupil's attendance in either of
10 the grades 11 or 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted
11 as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the
12 pupil's postsecondary education attendance and attendance in grade 11 or
13 12, as applicable, bears to full-time attendance. A pupil enrolled in and
14 attending an area vocational school, area vocational-technical school or
15 approved vocational education program shall be counted as one pupil if the
16 pupil's vocational education enrollment and attendance together with the
17 pupil's attendance in any of grades nine through 12 is at least $\frac{5}{6}$ time,
18 otherwise the pupil shall be counted as that proportion of one pupil (to the
19 nearest $\frac{1}{10}$) that the total time of the pupil's vocational education
20 attendance and attendance in any of grades nine through 12 bears to full-
21 time attendance. A pupil enrolled in a district and attending a non-virtual
22 school and also attending a virtual school shall be counted as that
23 proportion of one pupil (to the nearest $\frac{1}{10}$) that the pupil's attendance at the
24 non-virtual school bears to full-time attendance. Except as provided by this
25 section for preschool-aged exceptional children and virtual school pupils, a
26 pupil enrolled in a district and attending special education and related
27 services, provided for by the district shall be counted as one pupil. A pupil
28 enrolled in a district and attending special education and related services
29 provided for by the district and also attending a virtual school shall be
30 counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the pupil's
31 attendance at the non-virtual school bears to full-time attendance. A pupil
32 enrolled in a district and attending special education and related services
33 for preschool-aged exceptional children provided for by the district shall
34 be counted as $\frac{1}{2}$ pupil. A preschool-aged at-risk pupil enrolled in a district
35 and receiving services under an approved at-risk pupil assistance plan
36 maintained by the district shall be counted as $\frac{1}{2}$ pupil. A pupil in the
37 custody of the secretary of social and rehabilitation services or in the
38 custody of the commissioner of juvenile justice and enrolled in unified
39 school district No. 259, Sedgwick county, Kansas, but housed, maintained,
40 and receiving educational services at the Judge James V. Riddel Boys
41 Ranch, shall be counted as two pupils. Except as provided in section 1 of
42 chapter 76 of the 2009 Session Laws of the state of Kansas, and
43 amendments thereto, a pupil in the custody of the secretary of social and

1 rehabilitation services or in the custody of the commissioner of juvenile
2 justice and enrolled in unified school district No. 409, Atchison, Kansas,
3 but housed, maintained and receiving educational services at the youth
4 residential center located on the grounds of the former Atchison juvenile
5 correctional facility, shall be counted as two pupils.

6 (3) A pupil residing at the Flint Hills job corps center shall not be
7 counted. A pupil confined in and receiving educational services provided
8 for by a district at a juvenile detention facility shall not be counted. A pupil
9 enrolled in a district but housed, maintained, and receiving educational
10 services at a state institution or a psychiatric residential treatment facility
11 shall not be counted.

12 (4) *A pupil participating in the autism scholarship program shall not*
13 *be counted.*

14 (b) "Preschool-aged exceptional children" means exceptional
15 children, except gifted children, who have attained the age of three years
16 but are under the age of eligibility for attendance at kindergarten.

17 (c) "At-risk pupils" means pupils who are eligible for free meals
18 under the national school lunch act and who are enrolled in a district which
19 maintains an approved at-risk pupil assistance plan.

20 (d) "Preschool-aged at-risk pupil" means an at-risk pupil who has
21 attained ~~the age of four years~~ *four years of age*, is under the age of
22 eligibility for attendance at kindergarten, and has been selected by the state
23 board in accordance with guidelines consonant with guidelines governing
24 the selection of pupils for participation in ~~head start~~ *headstart* programs.

25 (e) "Enrollment" means: (1) (A) Subject to the provisions of
26 paragraph (1)(B), for districts scheduling the school days or school hours
27 of the school term on a trimestral or quarterly basis, the number of pupils
28 regularly enrolled in the district on September 20 plus the number of
29 pupils regularly enrolled in the district on February 20 less the number of
30 pupils regularly enrolled on February 20 who were counted in the
31 enrollment of the district on September 20; and for districts not specified
32 in this paragraph (1), the number of pupils regularly enrolled in the district
33 on September 20; (B) a pupil who is a foreign exchange student shall not
34 be counted unless such student is regularly enrolled in the district on
35 September 20 and attending kindergarten or any of the grades one through
36 12 maintained by the district for at least one semester or two quarters or
37 the equivalent thereof;

38 (2) if enrollment in a district in any school year has decreased from
39 enrollment in the preceding school year, enrollment of the district in the
40 current school year means whichever is the greater of: (A) Enrollment in
41 the preceding school year minus enrollment in such school year of
42 preschool-aged at-risk pupils, if any such pupils were enrolled, plus
43 enrollment in the current school year of preschool-aged at-risk pupils, if

1 any such pupils are enrolled; or (B) the sum of enrollment in the current
2 school year of preschool-aged at-risk pupils, if any such pupils are
3 enrolled and the average (mean) of the sum of: (i) Enrollment of the
4 district in the current school year minus enrollment in such school year of
5 preschool-aged at-risk pupils, if any such pupils are enrolled ~~and~~; (ii)
6 enrollment in the preceding school year minus enrollment in such school
7 year of preschool-aged at-risk pupils, if any such pupils were enrolled; and
8 (iii) enrollment in the school year next preceding the preceding school year
9 minus enrollment in such school year of preschool-aged at-risk pupils, if
10 any such pupils were enrolled; or

11 (3) the number of pupils as determined under K.S.A. 72-6447 or
12 K.S.A. 2011 Supp. 72-6448, and amendments thereto.

13 (f) "Adjusted enrollment" means: (1) Enrollment adjusted by adding
14 at-risk pupil weighting, program weighting, low enrollment weighting, if
15 any, high density at-risk pupil weighting, if any, medium density at-risk
16 pupil weighting, if any, nonproficient pupil weighting, if any, high
17 enrollment weighting, if any, declining enrollment weighting, if any,
18 school facilities weighting, if any, ancillary school facilities weighting, if
19 any, cost of living weighting, if any, special education and related services
20 weighting, and transportation weighting to enrollment; or (2) adjusted
21 enrollment as determined under K.S.A. 2011 Supp. 72-6457 or 72-6458,
22 and amendments thereto.

23 (g) "At-risk pupil weighting" means an addend component assigned
24 to enrollment of districts on the basis of enrollment of at-risk pupils.

25 (h) "Program weighting" means an addend component assigned to
26 enrollment of districts on the basis of pupil attendance in educational
27 programs which differ in cost from regular educational programs.

28 (i) "Low enrollment weighting" means an addend component
29 assigned to enrollment of districts pursuant to K.S.A. 72-6412, and
30 amendments thereto, on the basis of costs attributable to maintenance of
31 educational programs by such districts in comparison with costs
32 attributable to maintenance of educational programs by districts having to
33 which high enrollment weighting is assigned pursuant to K.S.A. 2011
34 Supp. 72-6442b, and amendments thereto.

35 (j) "School facilities weighting" means an addend component
36 assigned to enrollment of districts on the basis of costs attributable to
37 commencing operation of new school facilities.

38 (k) "Transportation weighting" means an addend component assigned
39 to enrollment of districts on the basis of costs attributable to the provision
40 or furnishing of transportation.

41 (l) "Cost of living weighting" means an addend component assigned
42 to enrollment of districts to which the provisions of K.S.A. 2011 Supp. 72-
43 6449, and amendments thereto, apply on the basis of costs attributable to

1 the cost of living in the district.

2 (m) "Ancillary school facilities weighting" means an addend
3 component assigned to enrollment of districts to which the provisions of
4 K.S.A. 72-6441, and amendments thereto, apply on the basis of costs
5 attributable to commencing operation of new school facilities. Ancillary
6 school facilities weighting may be assigned to enrollment of a district only
7 if the district has levied a tax under authority of K.S.A. 72-6441, and
8 amendments thereto, and remitted the proceeds from such tax to the state
9 treasurer. Ancillary school facilities weighting is in addition to assignment
10 of school facilities weighting to enrollment of any district eligible for such
11 weighting.

12 (n) "Juvenile detention facility" has the meaning ascribed thereto by
13 K.S.A. 72-8187, and amendments thereto.

14 (o) "Special education and related services weighting" means an
15 addend component assigned to enrollment of districts on the basis of costs
16 attributable to provision of special education and related services for
17 pupils determined to be exceptional children.

18 (p) "Virtual school" means any school or educational program that:
19 (1) Is offered for credit; (2) uses distance-learning technologies which
20 predominately use internet-based methods to deliver instruction; (3)
21 involves instruction that occurs asynchronously with the teacher and pupil
22 in separate locations; (4) requires the pupil to make academic progress
23 toward the next grade level and matriculation from kindergarten through
24 high school graduation; (5) requires the pupil to demonstrate competence
25 in subject matter for each class or subject in which the pupil is enrolled as
26 part of the virtual school; and (6) requires age-appropriate pupils to
27 complete state assessment tests.

28 (q) "Declining enrollment weighting" means an addend component
29 assigned to enrollment of districts to which the provisions of K.S.A. 2011
30 Supp. 72-6451, and amendments thereto, apply on the basis of reduced
31 revenues attributable to the declining enrollment of the district.

32 (r) "High enrollment weighting" means an addend component
33 assigned to enrollment of districts pursuant to K.S.A. 2011 Supp. 72-
34 6442b, and amendments thereto, on the basis of costs attributable to
35 maintenance of educational programs by such districts as a correlate to low
36 enrollment weighting assigned to enrollment of districts pursuant to
37 K.S.A. 72-6412, and amendments thereto.

38 (s) "High density at-risk pupil weighting" means an addend
39 component assigned to enrollment of districts to which the provisions of
40 K.S.A. 2011 Supp. 72-6455, and amendments thereto, apply.

41 (t) "Nonproficient pupil" means a pupil who is not eligible for free
42 meals under the national school lunch act and who has scored less than
43 proficient on the mathematics or reading state assessment during the

1 preceding school year and who is enrolled in a district which maintains an
2 approved proficiency assistance plan.

3 (u) "Nonproficient pupil weighting" means an addend component
4 assigned to enrollment of districts on the basis of enrollment of
5 nonproficient pupils pursuant to K.S.A. 2011 Supp. 72-6454, and
6 amendments thereto.

7 (v) "Psychiatric residential treatment facility" has the meaning
8 ascribed thereto by K.S.A. 72-8187, and amendments thereto.

9 (w) "Medium density at-risk pupil weighting" means an addend
10 component assigned to enrollment of districts to which the provisions of
11 K.S.A. 2011 Supp. 72-6459, and amendments thereto, apply.

12 Sec. 11. K.S.A. 2011 Supp. 72-6407 is hereby repealed.

13 Sec. 12. This act shall take effect and be in force from and after its
14 publication in the statute book.

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